

BOARD OF SELECTMEN

January 25, 2011

Minutes

The Board of Selectmen met on Tuesday, January 25, 2011 in the Town Hall Clark Room. Those present were Selectmen John D. Williams, Douglas A. G. Stevenson, William R. Tice, Jr., Peter Scavongelli, and John Gorecki. Town Administrator Timothy D. Goddard was also present.

Mr. Williams called the meeting to order at 7:05 p.m.

Town Administrator Report

Mr. Goddard said the Board is in receipt of a letter from Florence and David Reed, requesting permission from the Old Home Day Committee to schedule the Old Home Day event in July. On a motion made by Mr. Tice and seconded by Mr. Gorecki, it was unanimously **VOTED** to approve the request of the Old Home Day Committee to use Town facilities and roadways to stage the Old Home Day celebration on July 1st and 2nd as described in their letter of January 10, 2011. Mr. Stevenson commented that the School Building Project may limit some of the area where the festivities are held at the School.

Mr. Goddard said the Board would find a preliminary draft of the 2011 Annual Town Meeting Warrant in their books this evening. He said this is for informational purposes at this time as the composition of the final warrant is obviously the responsibility of the Selectmen. He said he wanted to give the Board an idea of the articles that may be included, which were the normal and customary articles and two of the articles that were submitted by citizens.

Mr. Goddard said the Board is in receipt of a letter from the Zoning Board of Appeals chair Kevin T. Smith relative to his position on the ZBA and a Ferns Country Store appeal matter before them. He said Kevin has been advised by the State Ethics Commission that since he does not have a financial interest in the appeal, he can participate in this matter. On a motion made by Mr. Scavongelli and seconded by Mr. Stevenson, it was unanimously **VOTED** to authorize Kevin T. Smith of Lowell Street to participate and Chair the Zoning Board of Appeals hearing regarding the appeal of the zoning enforcement officer's determination that Ferns does not require a special permit for indoor seating, having made the appropriate disclosure pursuant to the requirements of G.L. Ch. 268A, §19 that he does not have a financial interest in this particular matter.

Mr. Goddard said the Board has received a letter from Jack Greenhow, President of Local 201A representing the Carlisle Dispatchers' Union requesting that the Board enter into negotiations with the Union for a successor collective bargaining agreement to the current one which expires June 30, 2011. After a brief discussion it was decided that Mr. Stevenson and Mr. Gorecki would work together on these negotiations.

Mr. Goddard said the Metropolitan Area Planning Council (MAPC) has requested that the Board appoint a representative and/or an alternative member to represent Carlisle's interest on the MAPC. Mr. Goddard noted that it is a three year appointment. Mr. Gorecki said this committee meets three times during the year, that is, in February, May and October. It was the Boards wish to advertise for a volunteer for this committee.

Audit Committee

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Approved: 2.8.2011

Simon Platt, Deb Belanger, Larry Barton and Priscilla Dumka were present from the Audit Committee. Simon said the Audit Committee recommends that the Board of Selectmen accept the Financial Statements for the year ending June 30, 2010. Simon pointed out that the Town Audit was completed in a timely and efficient manner by our auditors, which he said was due to the efforts of Larry and Priscilla and the Finance Team. He said our thanks should go to Larry and Priscilla for keeping the controls in place and maintaining the records well. He said the management does not reflect anything of a material weakness or significant deficiency.

Simon said the main schedule that the auditors refer to every year is the trend in spending. He said despite the economic situation, the Town has been able to build reserves, which is good news.

Simon then directed everyone to the Post-employment Benefits. He said presently the Town like many other Towns is following a 'pay as you go' process. He said from an accounting perspective, while the employees are serving the Town we should start to accrue funds and recognize the obligation and expense in the upcoming future.

Mr. Scavongelli asked what other Towns are doing about this. Simon said he did not know of any Town that has made any starts at this. They are still doing pay as you go.

Larry said when he met with Moody's on Friday (1/21), they spoke specifically about OPEB. Moody's was interested that the Town had been discussing the matter. Larry said Moody's advised that the Town create a series of policies on how the Town deals with reserve balances. Larry said the Management Letter from the Auditors speaks to policies and procedures. A formal policy and procedures manual would improve and standardize the Town's financial policies and procedures and eliminate inconsistencies in its operations.

Mr. Williams said setting up a trust makes sense for OPEB. It seems it should be precedent to establish an OPEB Trust. He asked that this issue be put on another agenda for discussion. He also suggested looking for a prototype.

On a motion made by Mr. Stevenson and seconded by Mr. Tice, it was unanimously **VOTED** to accept the Independent Auditors' Report on Basic Financial Statements and Required Supplementary Information for the Town of Carlisle for the Fiscal Year Ended June 30, 2010 and the Town of Carlisle, Massachusetts Management Letter, dated June 30, 2010.

Personnel Committee

Mark Hersey and Diane Hersey from the Personnel Board were present to discuss the cost of living increase adjustment. Mark said when the Board members first discussed this issue they needed to know who they were representing; the town, the management or the employees. They were informed that they were representing the personnel. Mark prepared and submitted a graph that showed a history of inflation in Carlisle from 1990 to 2010 and the cost of living increases along the way. (Graph attached hereto) Mark said they also checked with neighboring Towns to see what types of increases were being given for 2012. Mr. Tice said it seemed that the trend line for increases were the COLA. Mr. Williams said the conclusion is that the Personnel Board is recommending a 2% cost of living increase.

On a motion made by Mr. Tice and seconded by Mr. Scavongelli, it was unanimously **VOTED** to accept the recommendation of the Personnel Board to have annual 2% increase for non-contractual employee for FY2012.

Consideration of Carry-In /BYOB policy

Mr. Williams said tonight is our third and last input session on the BYOB. He said this is a question about the alcohol; that is, should it be allowed and what are the requirements. He said the Board has reviewed policies of other communities. Mr. Williams said there has been a good response here at these meetings and via emails. He read a few more emails that were sent to the Board. Mr. Williams commented that many nice statements have been made about Robin Emerson and Larry Bearfield. However, he said Robin and Larry are running a business to make money and this Board does not feel that they owe them anything.

David Freedman of Hutchins Road asked the Board what they will specifically be voting on at the end of the Public Hearing. Will it be specifically related to Ferns? Mr. Williams said it will be a draft policy that will not be finalized or available immediately.

Gayle Constable from Lowell Street said she thinks the Town needs a Tavern. She does not want to see BYOB at a Country Store. She said we all learn by example and serving alcohol at Ferns shows that you have to have alcohol in order to have a good time. Gayle also was concerned about patrons of Ferns drinking and driving.

Mr. Williams said the Board has prepared a draft Carry-In Liquor Policy and Carry-In Liquor Special Permit Application, which he read aloud. (both are attached hereto)

Larry Bearfield, manager of Ferns Country Store was present and he asked a question relative to # 2 in the Policy which referred to the establishment not holding any other type of liquor license. Mr. Goddard explained that this referred to another license such as a *pouring license* in a restaurant. Mr. Williams added that this policy is not in final form. Mr. Gorecki said he would like to propose changes to this policy specifically he would like to add something about safety and hours. Mr. Williams said safety issues and the hours of operation are addressed on the Site Plan.

Mr. Stevenson said he was concerned with the term *special permit*. It was his opinion that it should be only *permit*. In response to Mr. Gorecki, Mr. Williams said there will be a fee for the permit and it could be anywhere from \$400.00 to \$1,000.00.

John Lee from Lowell Street asked in regard to the Carry-In Liquor Policy, how many bottles of beer a patron could drink compared to bottles of wine. His concern was over how this was going to be monitored.

On a motion made by Mr. Scavongelli and seconded by Mr. Tice, it was unanimously **VOTED** to adopt a Carry-In Liquor Policy for commercial establishments with the understanding that today's draft will be used as the frame work for adopting a final draft with the further understanding that there will be an opportunity for comment prior to adopting the final draft.

Public Hearing – Modification to Site Plan (Ferns Country Store)

Planning Board chair David Freedman said the Board met last night. He briefly went over the Site Plan review process. He said in regards to this Site plan review, the Planning Board held two public meetings, one on January 10th and the other on January 24th. At these meetings, they reviewed all the comments from other Boards and Committees as well as public comment.

David said the Planning Board is recommending that the Board of Selectmen approve the Site Plan. He said there are a few minor conditions. First, however he discussed a few fee waivers the applicant had requested.

The Planning Board Recommendations

David said the four main issues the Planning Board had were traffic safety, incremental changes over the years to Ferns, concerns on signage and following the appropriate process.

Condition 1. Pursuant to Section 7.6.6 of the Zoning Bylaw, the Selectmen shall not issue a Site Plan Approval until the ZBA has ruled on the appeal that is before the ZBA relating to the site, and particularly whether a special permit is required for the existing of the premises, and until all other appeals, if any, are exhausted.

Condition 2. The Board of Selectmen shall determine if the facility is in compliance with the Town's Zoning Bylaws pursuant to Section 7.6.3.1 of the Zoning Bylaws.

Condition 3. Prior to or in connection with the granting of a license for BYOB for the café seating area of Ferns, the Board of Selectmen should resolve the apparent inconsistency between the granting of a BYOB license and the current Retail Package Goods Store License granted by the Licensing Board of the Town of Carlisle.

Condition 4. Numbers #2, #4, #5, #6, #9 and #10 from the 9/23/08 Site Plan Approval Decision shall be continued in force in the Site Plan approval decision.

Condition 5. a) Ferns Country Store will maintain a current Common Victualler License, Food Establishment Permit and Liquor License for the beer and wine sales, b) No beer or wine beverages are to be consumed on the premises outside of the interior 19-person café seating area shown on the Plan, except as shall be consumed as part of wine and beer tastings within the package store following State law and regulations, c)

The café seating shall be limited to occupancy for 19 patrons. BYOB beverages may be consumed by patrons only when seated in this area, and d) Ferns employees may only provide a utensil to open BYOB beverages and may not open or pour or reseal such beverages.

Condition 6. The hours of BYOB operation shall be limited to 4:00 -9:00 p.m. Monday through Friday, and 12:00 p.m. to 9:00 p.m. Saturdays *and Sundays*.

Condition 7. [To help mitigate concerns about patrons under the influence of alcohol backing onto the public way adjacent to the rotary] Ferns employees shall request BYOB customers to park their vehicles at the rear of the store to maintain available short-term spaces in the front. In addition, staff shall also be requested to use the spaces in front nearest the rotary.

Condition 8. Two signs shall be posted in the café seating are designated for BYOB as follows: (a) a sign listing the penalties set forth in subdivision (1) of Section 25 of Ch. 90 for driving under the influence; and (b) a sign listing the penalties set forth in Section 233 1 of said Ch. 90 while operating a motor vehicle while drinking from an open container of alcohol. The text on the two sign shall be printed in letters not less in size than eighteen point capitals, boldface.

Condition 9. No exterior signage other than that previously approved by the Historical Commission shall be displayed on the site, and no exterior signage may advertise the BYOB availability.

Condition 10. Any permits required relating to having a television displayed in this establishment shall be obtained and maintained.

Condition 11. The Selectmen shall reserve the right to modify or amend their approval of this Site Plan in accordance with Sec. 7.6.8. of the Carlisle Zoning Bylaws.

Mr. Stevenson asked a question about the hours of operation. David said the Planning Board discussed this issue and they decided that the hours were already set by the Selectmen, knowing what issues there were with children hanging out. So if the Board of Selectmen wanted to change the hours, they could do so.

David spoke about some of the issues the Planning Board considered to be worthy of addressing.

David said there have been a number of citizens who expressed concerns about the BYOB policy, whether it was over their concern for their children or for the congestion in the Town Center. He said the one consequence of BYOB at Ferns which may not be observable as a problem is that patrons who do not wish their children to visit the store during BYOB hours will in essence have lost a community resource. He said the Board of Selectmen should consider such hidden consequences, as local families have no other alternative in Town and weigh that against the benefits to the community.

David read a list of issues raised by the Planning Board relative to general responsibilities in the eating and drinking area at Ferns.

In regard to setting limits on the amount of beer and wine to be permitted under the BYOB License, the Planning Board was concerned how this was going to be monitored.

David said the Planning Board also expressed concern over providing reassurance to the citizens that this is not a step toward an even more intensification of use.

David said the Planning Board has not taken a position either in favor of or opposed to the granting of a license for BYOB for Ferns by the Board of Selectmen.

Larry Bearfield said he would like to talk about some of the items in the Site Plan Review. He said specifically he was fine with Nos. 4, 5, 6, 7 – the wording needed to be changed, #9 and #11 were fine, too. Number 8 and 10 he did not agree with.

Mr. Stevenson said the Board has been given eleven conditions to review. It was his opinion that the Board needed time to go over them. Mr. Williams suggested that at the next meeting the Board set aside one hour to go through the conditions.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was unanimously **VOTED** to continue the Site Plan Review for Carlisle Center Ventures, LLC to February 8th at 8:00 p.m.

CPA Reduction /Rescission Discussion

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Approved: 2.8.2011

Mr. Williams said this discussion is to decide whether the question relative to the CPA reduction/rescission will be placed on the Warrant and Ballot. He said it is not a question reflecting our position. Mr. Williams said the reason we are having this discussion is because at the last Town Meeting in 2010, there was a conflicting result from the vote at Town Meeting and at the Ballot. Mr. Williams said it was his opinion that the question should be 'do we rescind it or not', offering no changes in percentages.

Mr. Stevenson said he was in support of a straight forward question. Mr. Tice said he agreed. Mr. Scavongelli said he supported the idea of a straight forward question. This way we could get a better answer from the voters.

David Freedman asked how the wording would be stated, as in regard to the unpaid debt to the CPA. Would the CPA be rescinded at a future date?

On a motion made by Mr. Stevenson and seconded by Mr. Tice, it was unanimously **VOTED** to include on the May 9, 2011 Town Meeting Warrant and the May 17, 2011 Town Election Warrant a question to rescind the Community Preservation Act.

Liaison Reports

Mr. Williams said there will be a joint Chairs meeting in Concord tomorrow morning. Tomorrow night the Community Preservation Committee is scheduled to hold a meeting.

He also said there will be an Affordable Housing Trust meeting on Thursday (1/27) at 7:00 p.m.

Mr. Williams said he and Mr. Goddard met with the Command Staff at the Police Department. He said it was a good meeting; the morale was good and everyone was looking forward to moving ahead.

Mr. Tice said the High School Building Committee will meet again tomorrow night. Mr. Williams asked him to emphasize affordability at these meetings.

Mr. Stevenson said the Carlisle School Building Committee will open Bids on February 3rd and they will make a recommendation to the Board of Selectmen on February 8th.

Mr. Stevenson said the Fire Department worked at a fire on Lowell Street recently and they did a great job.

Finance Director Larry Barton was present and he informed the Board that he is in the process of selling 9 ½ million dollars worth of Bond Anticipation Notes. The sale will be taking place on February 3, 2011. The nine and one half million dollars is meant to repay the one million dollars that we have already taken out and is due on February 16th, and eight million dollars to support the construction at the Carlisle Public School between now and November and another four hundred thousand dollars for the fire truck purchase. Larry said the Board of Selectmen will be asked to sign the necessary documents for the sale at their next meeting.

Minutes

On a motion made by Mr. Scavongelli and seconded by Mr. Tice, it was unanimously **VOTED** to approve the Minutes for the Board of Selectmen meeting of January 11, 2011.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was unanimously **VOTED** to adjourn the meeting of January 25, 2011 at 10:05.

Respectfully submitted by Margaret deMare